

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION SUBCOMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on March 26, 1999 at 8:01 A.M., in Room 108 Capitol.

ROLL CALL

Members Present:

Sen. Chuck Swysgood, Chairman (R)
Sen. Tom A. Beck (R)
Sen. Eve Franklin (D)
Sen. Debbie Shea (D)
Sen. Mignon Waterman (D)
Sen. Bob Keenan (R)

Members Excused: Sen. Tom Keating, Vice Chairman (R)
Sen. Chris Christiaens (D)
Sen. William Crismore (R)
Sen. Linda Nelson (D)
Sen. Greg Jergeson (D)
Sen. J.D. Lynch (D)
Sen. Dale Mahlum (R)
Sen. Ken Mesaros (R)
Sen. Ken Miller (R)
Sen. Arnie Mohl (R)
Sen. Mike Taylor (R)
Sen. Daryl Toews (R)

Members Absent: None.

Staff Present: Shannon Gleason, Committee Secretary
Lois Steinbeck, Legislative Branch
Greg Petesch, Legislative Service Division

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: Subcommittee action on SB 534,
4/11/1999

Executive Action:

CHAIRMAN SWYSGOOD advised the purpose of the subcommittee was to review, amend, and report to the full committee information on **SB 534**

SEN. KEENAN passed out amendments to the bill **EXHIBIT(fcs68a01)**.

Greg Petesch explained the amendments were a combination of the amendments requested at the hearing and also others the Legislative Fiscal Division felt were needed. **Mr. Petesch** reviewed the amendments line by line.

Laurie Ekenger, Department of Public Health and Human Services (DPHHS), advised the committee she felt the amendments addressed the issues the department had.

SEN. WATERMAN asked if there was anything in the bill that addressed the waiver program. **Mr. Petesch** did not believe there was specific language addressing that.

SEN. WATERMAN questioned if **REP. KASTEN** had a response to a letter she had written asking for clarification on the program. **REP. KASTEN** advised she had not received a response. **SEN. WATERMAN** stressed it was important to keep the waiver or the children's wrap around service would be lost, and she wanted language in the bill to address keeping the waiver.

CHAIRMAN SWYSGOOD thought everyone was concerned the program not return to the past fee for service, however he felt there should be an opportunity for some type of fee for service if it was needed in the transition.

REP. KASTEN felt the language in **HB 2** touched on that. **Lois Steinbeck**, Legislative Services, advised the **DPHHS** was planning to return to fee for service on 7/1/99. **Health Care Financing Administration (HCFA)** has advised once that happens the waiver would be abandoned, and the ability to receive Medicaid reimbursement would be lost except for hospitalization. **Ms. Steinbeck** explained the waiver allows Medicaid to be used for a wide variety of other items, and if the state retained the waiver but assumed financial risk, the state would be reimbursed on a per capita rate. If the services cost more than the reimbursement the state would have to pay the overage out of General Fund. **Ms. Steinbeck** advised if the state was directed to stay within the budget and not occur cost overruns, services would be reduced.

Dan Anderson, DPHHS, agreed with **Ms. Steinbeck**, but added if the state capitates it would become the managed care company and

there would be a emphasis to reduce services to stay within the budget. **Mr. Anderson** felt there was no way to guarantee the waiver, as acceptance was up to the federal government.

CHAIRMAN SWYSGOOD asked if the state would be forced to returned to fee for service if the waiver was lost. **Mr. Anderson** thought that was correct.

SEN. WATERMAN thought the state had to reapply for the waiver in July anyway, and the Federal Government indicated they would cooperate. No **HCFA** waiver has been canceled and **SEN. WATERMEN** thought as long as the state did not return to fee for service the Federal Government would cooperate as much as they could.

Mr. Anderson stated **HCFA** indicated on a conference call **the** emphasis with the waiver was the state's restriction of the freedom of provider choice for recipient. The payment method was not the question. The critical portion was the care management and restriction of access.

REP. KASTEN pointed out the waiver deals with only Medicaid population and not the entire service. **Mr. Petesch** stated the other thing indicated in the conference call with **HCFA** was the legislative intent, and the preamble of this bill was designed to show the legislative intent.

SEN. BECK asked if that was why the language on amendment 13 was stated as such. **Mr. Petesch** advised it was there to make sure services were used in the most cost effective manner so the state hospital did not turn into a dumping ground.

CHAIRMAN SWYSGOOD asked **Ms. Steinbeck** to explain the letter to **HCFA**. **Ms. STEINBECK** explained the letter was a follow up to the conference call. **HCFA** has agreed to extend the waiver after the state takes over the care. **Wayne Smith** from the **HCFA** program stated if the services offered under the program do not change he would consider the waiver in effect even if Magellan leaves. The letter asked if Magellan left and the state picks up another provider would the waiver would continue. If they say yes, then the issue is for the department to find another organization to manage care, as the state would be paying at that time. If **HCFA** allows the waiver extension a new application would need to resubmitted for the continued service.

REP. BARNHART stated there were three conditions **HCFA** cited, and asked if freedom of choice was one of the three. **Ms. Steinbeck** advised it was.

SEN. BECK wanted to verify if an interim provider was appointed, the appointment would only last until the contracts were awarded. **Ms. Steinbeck** advised yes, and the replacement would be there until a permanent provider was selected. {Tape : 1; Side : A; Approx. Time Counter :8:30}

CHAIRMAN SWYSGOOD wanted time frames. He was advised on 5/1/99 the department assumed financial risk and Magellan was the managed health entity until 7/1/99.

CHAIRMAN SWYSGOOD asked how the costs would be contained while Magellan was providing services. **Mike Billings**, DPHHS, advised it would be business as usual and preauthorizations were required. **CHAIRMAN SWYSGOOD** wanted to know what was going to happen if they don't stay within budget. **Mr. Billings** advised that was being discussed, but added the data indicated they were controlling costs far better than they had been in the past.

CHAIRMAN SWYSGOOD asked if the state returned to fee for service for the Medicaid portion and the waiver was voided, how the state would return to the waiver. **Randy Poulsen**, DPPHS, advised the state would have to apply for a new waiver, however the process would be no more complicated than applying for the renewal of the waiver.

CHAIRMAN SWYSGOOD asked if the waiver was extended until 7/1/99. **Mr. Poulsen** advised the department has applied for an extension and a new waiver would be applied for as soon as the department knew what direction it was to go in.

SEN. KEENAN asked what direction the state was going in and was upset because the state was waiting so long to form a plan. **Mr. Poulsen** advised the plan was on **EXHIBIT (fcs68a02)**.

REP. KASTEN asked when the RFP would be issued. **Mr. Poulsen** felt the new provider could be in place between February and July.

REP. KASTEN wanted to know when the provider would be selected to cover in the interim. **Mr. Poulsen** thought they would be selected soon. **REP. KASTEN** advised 9/3/99 the proposals were due for the providers and the contract would be awarded on 10/15/99.

CHAIRMAN SWYSGOOD asked if the contract could be awarded without the waiver. **Mr. Poulsen** advised it could.

SEN. KEENAN asked for the status of the network of providers. **Mr. Poulsen** felt under the contingency plan the provider rate would not suffer and possibly increase because several would not work with Magellan.

SEN. KEENAN wondered if the pharmacy discount could be accessed during this period. **Mr. Poulsen** advised it could.

SEN. KEENAN asked how many hospitals had an agreement with Magellan. **Mr. Poulsen** thought there were several. **SEN. KEENAN** asked where they would be. **Mr. Poulsen** advised the contract rate would not be in place. **SEN. KEENAN** asked whether the costs would decrease. **Mr. Poulsen** did not know.

SEN. FRANKLIN wanted a full report of financial status involving the Magellan settlement. **CHAIRMAN SWYSGOOD** advised it was being negotiated with forgiveness of penalties and fines and thought there was \$900,000.00 for a buyout, however no numbers were final.

REP. KASTEN felt the Wednesday after Easter was the time everyone should know.

Mr. Billings advised an agreement was signed late last night and has changed very little.

REP. COBB was very upset and wanted a report today.

Mr. Billings advised a copy of the agreement would be made available today.

SEN. KEENAN requested the estimate for the cost overage for the next three months. **Mr. Billings** did not feel there would be a cost overrun.

SEN. WATERMAN wanted to know the cost for hospitalized non-medicaid reimbursement. **Mr. Poulsen** expected all rates would be the same and the rates were not yet set, however acute care hospitalization services would not be reimbursed.

SEN. WATERMAN wondered how the school-based services would be effected. **Mr. Anderson** advised the services would be evaluated to see if they could fit into another category but there were some services that did not fall into a clear category and would not be reimbursed. *{Tape : 1; Side : B; Approx. Time Counter : 0}*

Robert Runkle, Office of Public Instruction, advised the schools would lose aides and additional supervision for transportation. **SEN. WATERMAN** felt the loss of those services would cause those children to be placed somewhere else and exasperate another budget.

REP. BARNHARDT wanted additional information on the **HCFA** waiver as she understood if the legislative intent was there the waiver would be extended. **CHAIRMAN SWYSGOOD** advised it was in the air until someone responded to **REP. KASTEN's** letter.

SEN. KEENAN asked if there was no cost overrun why the state would return to fee-for-service and not continue the waiver. **Ms. Ekanger** explained the difference between fee for service and decapitated and addressed why the department could not manage the care.

Ms. Steinbeck advised the program people are thinking of is a program the department will go to on 5/1/99 and wanted to know if a provider could be hired with the state reimbursing costs. **Ms. Ekanger** stated if the state would want to assume the risk and if **HCFA** was willing. **CHAIRMAN SWYSGOOD** felt there was no difference and did not understand the problem. **Ms. Ekanger** felt the department was at full risk to stay within the budget.

SEN. FRANKLIN requested the payment structure Magellan would receive over the next few months. The department advised for May and June nothing and ongoing .96 per claim.

CHAIRMAN SWYSGOOD stated **HCFA** was concerned the federal portion did not increase. **Mr. Poulsen** agreed, and felt if all three requirements were met **HCFA** would be satisfied.

Motion/Vote: **SEN. KEENAN** moved that **AMENDMENT SB053402.AGP BE ADOPTED. Motion carried unanimously.**

{Tape : 1; Side : B; Approx. Time Counter :8:55}

CHAIRMAN SWYSGOOD thought **HB 2** had been amended to include a guideline.

SEN. FRANKLIN thought **Kip Smith** had an amendment to review and handed out **EXHIBIT(fcs68a03)**.

Mr. Smith examined the amendments and advised **Susan Fox**, Legislative Division, had also reviewed them. **Mr. Petesch** advised the committee there were existing statutes governing managed care and the amendment would place the Insurance Commissioner as a provider overseer.

Russ Cater, DPHHS, advised the insurance code was very lengthy but he felt this provision was alright with another amendment allowing the department to adopt a scope of services.

CHAIRMAN SWYSGOOD felt this amendment would do the same as **SEN. GRIMES** bill. **Bob Olsen**, Montana Health Association, advised the difference was the Insurance Commissioner had the right to waive all codes that are not applicable.

SEN. WATERMAN felt the amendments sent a mixed message to the department concerning regional care. **Ms. Ekenger** advised the department was continuing with a regional program. **SEN. BECK** asked if the word regional made a difference. **Ms. Ekenger** felt the language was already there and nothing would prevent a region to region transition. **CHAIRMAN SWYSGOOD** advised staff would research the amendments prior to voting on it.

SEN. KEENAN wanted to know the departments concept of the Consumer Advisory Counsel. **Ms. Ekenger** felt the provision in statute was fine and understood a consumer advocacy education program was wanted. **SEN. KEENAN** advised he had received e-mail from an attorney that was watching this. **Ms. Ekenger** felt the cost implications would need to be addressed in association with the counsel.

SEN. WATERMAN wanted to work with **SEN. KEENAN** on the consumer language.

CHAIRMAN SWYSGOOD noted on page five it was required consumers made up the majority and felt there should be not statue as to who was to be the majority.

REP. KASTEN asked for "at large" verbiage.

SEN. WATERMAN wanted to make sure the continuation of the waiver was addressed.

CHAIRMAN SWYSGOOD advised there would be another subcommittee meeting to address the questions raised and allow staff to review the concerns.

SEN. FRANKLIN was upset that the department did not disclose the agreement with Magellan until pressured to respond to questions by the committee. The entire committee concurred.

ADJOURNMENT

Adjournment: 9:10 A.M.

SEN. CHUCK SWYSGOOD, Chairman

SHANNON GLEASON, Secretary

CS/SG

EXHIBIT (fcs68aad)